

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 96-3574

Dorothy Ann Daire,

Plaintiff - Appellant,

v.

United States of America,

Defendant - Appellee.

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Appeal from the United States
District Court for
District of Minnesota.

[UNPUBLISHED]

Submitted: June 9, 1997

Filed: June 13, 1997

Before MURPHY and HEANEY, Circuit Judges, and BOGUE,¹ District Judge.

PER CURIAM.

The issues in this appeal involve the application of a Minnesota no fault offset provision. Appellant asserts errors by the district court² in its calculation of the offset, and appellee concedes that remand would be more appropriate than entry of a new

¹The Honorable Andrew Bogue, United States District Judge for the District of South Dakota, sitting by designation.

²The United States Magistrate Judge Jonathan G. Lebedoff, sitting by consent of the parties.

damage award by this court. Appellant states that she did not receive a copy of the district court's findings and order for judgment within the time period in which a Rule 59 motion to amend could have been filed.³ Appellant thus has never brought the asserted calculation errors to the attention of the district court which is familiar with the facts of this case and better situated to make an initial determination as to the proper offset. We therefore remand the case to the district court so that it may vacate the judgment previously entered and then reinstate it, thereby starting the time running anew within which appellant could file a Rule 59 motion. The panel will retain jurisdiction and the magistrate judge should certify his findings back to this court. At that time the parties can indicate whether further appellate attention is needed.

It is so ordered.

A true copy.

Attest:

CLERK, U. S. COURT OF APPEALS, EIGHTH CIRCUIT.

³Appellant's motion to supplement the record is granted.